

§ 660.62

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

[64 FR 22812, Apr. 28, 1999]

§ 660.62 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 660.15, it is unlawful for any person to do any of the following:

(a) Fish for bottomfish or seamount groundfish using gear prohibited under § 660.64.

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalulu Zone or Mau Zone without the appropriate permit, registered for use with that vessel, issued under § 660.13.

(c) Serve as primary operator or relief operator on a vessel with a Mau or Ho'omalulu Zone permit without completing a protected species workshop conducted by NMFS, as required by § 660.61.

(d) Fail to notify the USCG at least 24 hours prior to making any landing of

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bottomfish taken in the Ho'omalulu Zone, as required by § 660.63.

(e) Fish within any protected species study zone in the NWHI without notifying the Regional Director of the intent to fish in these zones, as required under § 660.63.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999]

§ 660.63 Notification.

(a) The owner or operator of a fishing vessel subject to this subpart must inform the Pacific Area Office at least 72 hours (not including weekends and holidays) before leaving port, of his or her intent to fish within the protected species study zones defined in § 660.12. The notice must include the name of the vessel, name of the operator, intended departure and return date, and a telephone number at which the owner or operator may be contacted during the business day (8 a.m. to 5 p.m.) to indicate whether an observer will be required on the subject fishing trip.

(b) The operator of a fishing vessel that has taken bottomfish in the Ho'omalulu Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

§ 660.64 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for bottomfish and seamount groundfish with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under § 660.61 or otherwise established to be fishing for bottomfish or seamount groundfish in the management sub-areas is prohibited.

(c) *Poisons and explosives.* The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting bottomfish and seamount groundfish is prohibited.

§ 660.65 At-sea observer coverage.

(a) All fishing vessels subject to this subpart must carry an observer when